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8
9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2010-254

14 **CHARLENE ANN BALLARD**
15 **3324 West Avenue J3**
Lancaster, CA 93536

ACCUSATION

16 **Registered Nurse License No. 343171**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
23 of Consumer Affairs.

24 **License History**

25 2. On or about April 30, 1982, the Board of Registered Nursing issued Registered Nurse
26 License Number 343171 to Charlene Ann Ballard ("Respondent"). The Registered Nurse License
27 was in full force and effect at all times relevant to the charges brought herein and will expire on
28 May 31, 2010, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code), unless otherwise indicated.

4. Code section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

7. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, . . .

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

8. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

1 (c) Be convicted of a criminal offense involving the prescription,
2 consumption, or self-administration of any of the substances described in
3 subdivisions (a) and (b) of this section, or the possession of, or falsification of a
4 record pertaining to, the substances described in subdivision (a) of this section,
5 in which event the record of the conviction is conclusive evidence thereof.

6 COST RECOVERY

7 9. Code section 125.3 provides, in pertinent part, that the Board may request the
8 administrative law judge to direct a licensee found to have committed a violation or violations of
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case.

11 FIRST CAUSE FOR DISCIPLINE

12 (Criminal Conviction)

13 10. Respondent is subject to disciplinary action under Code section 2761, subdivision (f),
14 in that Respondent has been convicted of crimes substantially related to the qualifications,
15 functions, and duties of a registered nurse, as follows:

16 a. On or about October 25, 2001, in the Superior Court of California, County of
17 Los Angeles, in the case entitled, *People of the State of California v. Charlene Ann Ballard*
18 (Super Ct. Los Angeles County, 2001, Case No. 1AT03884), Respondent was convicted on her
19 plea of nolo contendere of violating Vehicle Code section 23152, subdivision (a) (Driving While
20 Under the Influence of an Alcoholic Beverage or any Drug or Under Their Combined Influence).
21 As part of Respondent's plea of nolo contendere, Respondent admitted having two prior
22 convictions for violating Vehicle Code section 23152, subdivision (a), on or about November 6,
23 1996, in Superior Court, County of Los Angeles, Antelope Valley Judicial District Case No.
24 604363, and June 24, 1998, in Superior Court, County of Los Angeles, Antelope Valley Judicial
25 District Case No. 8AT-3200.

26 b. On or about August 7, 2008, in the Superior Court of California, County of
27 Los Angeles, in the case entitled, *People of the State of California v. Charlene Ann Ballard*
28 (Super Ct. Los Angeles County, 2001, Case No. 8AV05467), Respondent was convicted on her
plea of nolo contendere of violating Vehicle Code sections 23152, subdivision (a) (Driving While
Under the Influence of an Alcoholic Beverage or any Drug or Under Their Combined Influence,

1 with prior convictions), a misdemeanor. The circumstances of the conviction are that on or about
2 March 25, 2008, a Los Angeles County Sheriff Deputy responded to a traffic collision involving a
3 Sheriff Deputy on a motorcycle and Respondent. Upon conducting an investigation into the
4 collision, Respondent's speech was slow and slurred and her eyes were constricted. Respondent
5 informed the Sheriff Deputy that she was taking several prescription medications, including
6 Oxycontin. After conducting the field sobriety tests, it was determined that Respondent was
7 under the influence of a narcotic or depressant or both and was placed under arrest.

8 c. On or about August 7, 2008, in the Superior Court of California, County of
9 Los Angeles, in the case entitled, *People of the State of California v. Charlene Ann Ballard*
10 (Super Ct. Los Angeles County, 2001, Case No. 8AV05868), Respondent was convicted on her
11 plea of nolo contendere of violating Vehicle Code section 14601, subdivision (a) (Driving with a
12 Suspended or Revoked License), a misdemeanor.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Criminal Convictions Involving the Consumption 15 of Alcohol Beverage and/or Drugs))**

16 11. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),
17 on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (c), in
18 that Respondent was convicted of crimes involving the consumption of alcoholic beverages
19 and/or drugs, as set forth in paragraph 10, subparagraphs (a) and (b), above.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Use Alcoholic Beverages and/or Drugs to the Extent or 22 in a Manner Dangerous or Injurious to Herself or Others)**

23 12. Respondent is subject to disciplinary action under Code section 2762, subdivision (a),
24 on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (b), in
25 that Respondent consumed alcoholic beverages and/or used drugs to an extent or in a manner
26 dangerous or injurious to herself or others, as set forth paragraph 10, subparagraphs (a) and (b),
27 above. Respondent also admitted to being involved in two additional Driving Under the
28 Influence Incidents in or about 1990 and 1997 or 1998.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:


1. Revoking or suspending Registered Nurse License Number 343171, issued to Charlene Ann Ballard;

2. Ordering Charlene Ann Ballard to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: 11/5/09

for


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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